

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JOHN F. CHAMPAGNE, JR., ET AL.,

Case No. C-06-05425 JSW (JCS)

Plaintiff(s),

v.

THE CITY AND COUNTY OF  
SAN FRANCISCO, ET AL.,

**ORDER RE JOINT LETTER  
OF FEBRUARY 14, 2008  
[Docket No. 48]**

Defendant(s).

In this action, Plaintiffs allege fraud and civil conspiracy against the City and County of San Francisco (the “City” or “Defendants”) and claim that the City improperly exonerated a tenant of code violations at premises owned by Plaintiffs. The allegedly improper conduct took place in the months leading up to August 8, 2005, the date on which Plaintiffs’ unlawful detainer case was scheduled to go to trial against the tenant. In a Joint Letter dated February 14, 2008 [Docket No. 48] (the “Motion”), Plaintiffs seek the following relief from the Court: (1) permission to take up to 25 depositions (Plaintiffs have already taken nine depositions); (2) permission to propound 60 interrogatories; and (3) an order compelling the depositions of the San Francisco Fire Department Chief Joanne Hayes-White and Deputy Chief Kochevar. The Motion is DENIED.

The request to take 25 depositions is excessive. While Plaintiffs suggest that there are 13 additional individuals that may have discoverable information, Plaintiffs make no effort to identify what information, if any, they may possess. Plaintiffs have already taken nine depositions, and all parties have agreed that Plaintiffs may take two additional depositions for a total of 11. In addition, the Court agrees with Plaintiffs that they are entitled to take the deposition of any expert identified

1 by Defendants during expert disclosures. This is not a complex case, and 11 non-expert depositions  
2 is more than sufficient.

3 Similarly, Plaintiffs have not offered sufficient justification for 60 interrogatories. Plaintiffs'  
4 only argument is that they have used 20 interrogatories and they need more, citing Defendants'  
5 largely boilerplate affirmative defenses. There is no indication that Plaintiffs have not had a  
6 sufficient opportunity to inquire into Defendants' positions, and have remaining 5 interrogatories per  
7 Plaintiff for any additional discovery that is necessary.

8 Plaintiffs also violate Rule 26's admonition that they request only information reasonably  
9 calculated to yield admissible evidence by seeking the depositions of Chief Hayes-White and  
10 Deputy Chief Kochevar. There is no evidence that either of these individuals had any involvement  
11 in the decisions of the Defendants to "exonerate" Plaintiffs' tenant. Plaintiffs offer no evidence that  
12 Deputy Chief Kochevar has any relevant information. Plaintiffs admit that Chief Hayes-White had  
13 no involvement until *after* the decisions were made on the code violations, and *after* Plaintiffs'  
14 unlawful detainer against the tenant was scheduled to go to trial. Plaintiffs settled that matter. The  
15 fact that Chief Hayes-White attended a meeting with Plaintiffs when they complained *after* these  
16 events does not change this conclusion. Moreover, others attended that meeting and could have been  
17 deposed by Plaintiffs. Plaintiffs may not simply depose the head of a city agency without some  
18 showing that the information to be gained could not have been learned from lesser officials. *See*  
19 *Kyle Eng'g Co. v. Kleppe*, 600 F. 2d 226, 231 (9th Cir. 1979).

20 IT IS SO ORDERED.

21  
22 Dated: February 25, 2008

23   
JOSEPH C. SPERO  
24 United States Magistrate Judge  
25  
26  
27  
28